



Docket No.: C1039.70078US00
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Arthur M. Krieg
Serial No.: 10/627,331
Confirmation No.: 4362
Filed: July 25, 2003
For: METHODS FOR TREATING AND PREVENTING INFECTIOUS
DISEASE
Examiner: Le, Emily M.
Art Unit: 1648

Certificate of Mailing Under 37 CFR 1.8(a)

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated:


Sharon R. Lloyd

PETITION UNDER 37 C.F.R. § 1.181 AND §1.182

MAIL STOP PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The information disclosure statement filed by Applicant has been objected to under 37 CFR 1.98(a) and each of the foreign patent documents and non-patent literature publications has not been considered. The Examiner has stated that 37 CFR 1.98 (a) requires a legible copy of each foreign patent document and non-patent literature publication and that such were not included with the IDS.

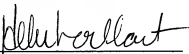
Applicants assert that they have complied with their duty of disclosure as outlined in the MPEP §609 and §2001- 2004 and in compliance with 35 C.F.R. §1.56, §1.97 and §1.98. Applicants have presented a clean copy of the IDS previously submitted for review by the Examiner (omitting those references that have already been considered). Applicants request that these foreign patent documents and non-patent literature publications be reviewed by the Examiner and be granted the date of submission of the original filed IDS.

Applicant's strongly disagree with the Examiner's refusal to consider the IDS. Each of the foreign patent documents and non-patent literature publications cited in the IDS submitted on January 12, 2004 was previously cited to the Patent Office in a prior application relied upon for an earlier filing date under 35 USC 120. Such information is indicated at the end of the Form 1449. According to MPEP2006.06(b) if "the application under examination is identified as a continuation, divisional, or continuation-in-part of an earlier application, the examiner will consider the prior art cited in the earlier application. See MPEP 609. The examiner must indicate in the first Office action whether the prior art in a related application has been reviewed. Accordingly, no separate citation of the same prior art need be made in the later application." (MPEP 2001.06(b)). "The examiner will consider information which has been considered by the Office in a parent application when examining: (A) a continuation application filed under 37 CFR 1.53(b), (B) a divisional application filed under 37 CFR 1.53(b), or (C) a continuation-in-part application filed under 37 CFR 1.53(b). A listing of the information need not be resubmitted in the continuing application unless the applicant desires the information to be printed on the patent." (MPEP 609.02(A)(2)) In this case, Applicant desires to have it printed on the front page of the patent. Additionally, as stated above, Applicants have submitted herewith a clean copy of the 1449. Thus, Applicants request that the cited references be reviewed by the Examiner and be granted the date of submission of the original filed IDS.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 23/2825, under Docket No. C1039.70078US00. A duplicate copy of this paper is enclosed.

Dated: July 9, 2007

Respectfully submitted,

By 

Helen C. Lockhart

Registration No.: 39,248

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